



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0502

Introduced 1/27/2005, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-102
220 ILCS 5/Art. XX heading new
220 ILCS 5/20-5 new
220 ILCS 5/20-10 new
220 ILCS 5/20-15 new
220 ILCS 5/20-20 new
220 ILCS 5/20-25 new

Amends the Public Utilities Act. Provides that, for public schools, the "transition charge" is: (i) 0.5 cents per kilowatt-hour during the period October 1, 1999 through December 31, 2004, 1.25 cents per kilowatt-hour in calendar year 2005, and 1.5 cents per kilowatt-hour in calendar year 2006, multiplied in each year by the usage identified in paragraph (1); or (ii) an amount equal to the following percentages of the amount produced by applying the applicable base rates or contract rate to the identified usage: 8% for the period October 1, 1999 through December 31, 2002, 10% in calendar years 2003 and 2004, 15% in calendar year 2005 and 25% in calendar year 2006 (now, the transition charge for public schools is calculated in the same manner as that of all nonresidential retail customers). Requires each Illinois gas corporation to file annually a set of transportation schedules or tariffs applicable to public schools authorizing a public school association to aggregate the purchase of natural gas for its members. Requires the transportation schedules or tariffs to (i) establish certain delivery charges; (ii) authorize a public school association to contract with the gas corporation at monthly market prices for interstate pipeline capacity; (iii) require the gas corporation to provide certain usage projections; and (iv) authorizes the corporation to impose a penalty under limited circumstances. Authorizes the Illinois Commerce Commission to suspend the transportation schedule or tariff for up to 3 months. Requires energy sellers to comply with applicable Commission rules. Provides that any agreement between a public school association and an energy seller is void if the energy seller does not comply with Commission rules. Requires each gas corporation to file an annual statement of its revenues and incremental charges incurred as direct result of the aggregation of natural gas for public schools. Authorizes the Commission to promulgate rules reasonable and necessary to administer the aggregation program. Effective immediately.

LRB094 05516 MKM 35565 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-102 and by adding Article XX as follows:

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the purposes of this Article
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative retail electric supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers electric power or energy for sale, lease or in exchange
16 for other value received to one or more retail customers, or
17 that engages in the delivery or furnishing of electric power or
18 energy to such retail customers, and shall include, without
19 limitation, resellers, aggregators and power marketers, but
20 shall not include (i) electric utilities (or any agent of the
21 electric utility to the extent the electric utility provides
22 tariffed services to retail customers through that agent), (ii)
23 any electric cooperative or municipal system as defined in
24 Section 17-100 to the extent that the electric cooperative or
25 municipal system is serving retail customers within any area in
26 which it is or would be entitled to provide service under the
27 law in effect immediately prior to the effective date of this
28 amendatory Act of 1997, (iii) a public utility that is owned
29 and operated by any public institution of higher education of
30 this State, or a public utility that is owned by such public
31 institution of higher education and operated by any of its
32 lessees or operating agents, within any area in which it is or

1 would be entitled to provide service under the law in effect
2 immediately prior to the effective date of this amendatory Act
3 of 1997, (iv) a retail customer to the extent that customer
4 obtains its electric power and energy from that customer's own
5 cogeneration or self-generation facilities, (v) an entity that
6 owns, operates, sells, or arranges for the installation of a
7 customer's own cogeneration or self-generation facilities, but
8 only to the extent the entity is engaged in owning, selling or
9 arranging for the installation of such facility, or operating
10 the facility on behalf of such customer, provided however that
11 any such third party owner or operator of a facility built
12 after January 1, 1999, complies with the labor provisions of
13 Section 16-128(a) as though such third party were an
14 alternative retail electric supplier, or (vi) an industrial or
15 manufacturing customer that owns its own distribution
16 facilities, to the extent that the customer provides service
17 from that distribution system to a third-party contractor
18 located on the customer's premises that is integrally and
19 predominantly engaged in the customer's industrial or
20 manufacturing process; provided, that if the industrial or
21 manufacturing customer has elected delivery services, the
22 customer shall pay transition charges applicable to the
23 electric power and energy consumed by the third-party
24 contractor unless such charges are otherwise paid by the third
25 party contractor, which shall be calculated based on the usage
26 of, and the base rates or the contract rates applicable to, the
27 third-party contractor in accordance with Section 16-102.

28 "Base rates" means the rates for those tariffed services
29 that the electric utility is required to offer pursuant to
30 subsection (a) of Section 16-103 and that were identified in a
31 rate order for collection of the electric utility's base rate
32 revenue requirement, excluding (i) separate automatic rate
33 adjustment riders then in effect, (ii) special or negotiated
34 contract rates, (iii) delivery services tariffs filed pursuant
35 to Section 16-108, (iv) real-time pricing, or (v) tariffs that
36 were in effect prior to October 1, 1996 and that based charges

1 for services on an index or average of other utilities'
2 charges, but including (vi) any subsequent redesign of such
3 rates for tariffed services that is authorized by the
4 Commission after notice and hearing.

5 "Competitive service" includes (i) any service that has
6 been declared to be competitive pursuant to Section 16-113 of
7 this Act, (ii) contract service, and (iii) services, other than
8 tariffed services, that are related to, but not necessary for,
9 the provision of electric power and energy or delivery
10 services.

11 "Contract service" means (1) services, including the
12 provision of electric power and energy or other services, that
13 are provided by mutual agreement between an electric utility
14 and a retail customer that is located in the electric utility's
15 service area, provided that, delivery services shall not be a
16 contract service until such services are declared competitive
17 pursuant to Section 16-113; and also means (2) the provision of
18 electric power and energy by an electric utility to retail
19 customers outside the electric utility's service area pursuant
20 to Section 16-116. Provided, however, contract service does not
21 include electric utility services provided pursuant to (i)
22 contracts that retail customers are required to execute as a
23 condition of receiving tariffed services, or (ii) special or
24 negotiated rate contracts for electric utility services that
25 were entered into between an electric utility and a retail
26 customer prior to the effective date of this amendatory Act of
27 1997 and filed with the Commission.

28 "Delivery services" means those services provided by the
29 electric utility that are necessary in order for the
30 transmission and distribution systems to function so that
31 retail customers located in the electric utility's service area
32 can receive electric power and energy from suppliers other than
33 the electric utility, and shall include, without limitation,
34 standard metering and billing services.

35 "Electric utility" means a public utility, as defined in
36 Section 3-105 of this Act, that has a franchise, license,

1 permit or right to furnish or sell electricity to retail
2 customers within a service area.

3 "Mandatory transition period" means the period from the
4 effective date of this amendatory Act of 1997 through January
5 1, 2007.

6 "Municipal system" shall have the meaning set forth in
7 Section 17-100.

8 "Real-time pricing" means charges for delivered electric
9 power and energy that vary on an hour-to-hour basis for
10 nonresidential retail customers and that vary on a periodic
11 basis during the day for residential retail customers.

12 "Retail customer" means a single entity using electric
13 power or energy at a single premises and that (A) either (i) is
14 receiving or is eligible to receive tariffed services from an
15 electric utility, or (ii) that is served by a municipal system
16 or electric cooperative within any area in which the municipal
17 system or electric cooperative is or would be entitled to
18 provide service under the law in effect immediately prior to
19 the effective date of this amendatory Act of 1997, or (B) an
20 entity which on the effective date of this Act was receiving
21 electric service from a public utility and (i) was engaged in
22 the practice of resale and redistribution of such electricity
23 within a building prior to January 2, 1957, or (ii) was
24 providing lighting services to tenants in a multi-occupancy
25 building, but only to the extent such resale, redistribution or
26 lighting service is authorized by the electric utility's
27 tariffs that were on file with the Commission on the effective
28 date of this Act.

29 "Service area" means (i) the geographic area within which
30 an electric utility was lawfully entitled to provide electric
31 power and energy to retail customers as of the effective date
32 of this amendatory Act of 1997, and includes (ii) the location
33 of any retail customer to which the electric utility was
34 lawfully providing electric utility services on such effective
35 date.

36 "Small commercial retail customer" means those

1 nonresidential retail customers of an electric utility
2 consuming 15,000 kilowatt-hours or less of electricity
3 annually in its service area.

4 "Tariffed service" means services provided to retail
5 customers by an electric utility as defined by its rates on
6 file with the Commission pursuant to the provisions of Article
7 IX of this Act, but shall not include competitive services.

8 "Transition charge" means a charge expressed in cents per
9 kilowatt-hour that is calculated for a customer or class of
10 customers as follows for each year in which an electric utility
11 is entitled to recover transition charges as provided in
12 Section 16-108:

13 (1) the amount of revenue that an electric utility
14 would receive from the retail customer or customers if it
15 were serving such customers' electric power and energy
16 requirements as a tariffed service based on (A) all of the
17 customers' actual usage during the 3 years ending 90 days
18 prior to the date on which such customers were first
19 eligible for delivery services pursuant to Section 16-104,
20 and (B) on (i) the base rates in effect on October 1, 1996
21 (adjusted for the reductions required by subsection (b) of
22 Section 16-111, for any reduction resulting from a rate
23 decrease under Section 16-101(b), for any restatement of
24 base rates made in conjunction with an elimination of the
25 fuel adjustment clause pursuant to subsection (b), (d), or
26 (f) of Section 9-220 and for any removal of decommissioning
27 costs from base rates pursuant to Section 16-114) and any
28 separate automatic rate adjustment riders (other than a
29 decommissioning rate as defined in Section 16-114) under
30 which the customers were receiving or, had they been
31 customers, would have received electric power and energy
32 from the electric utility during the year immediately
33 preceding the date on which such customers were first
34 eligible for delivery service pursuant to Section 16-104,
35 or (ii) to the extent applicable, any contract rates,
36 including contracts or rates for consolidated or

1 aggregated billing, under which such customers were
2 receiving electric power and energy from the electric
3 utility during such year;

4 (2) less the amount of revenue, other than revenue from
5 transition charges and decommissioning rates, that the
6 electric utility would receive from such retail customers
7 for delivery services provided by the electric utility,
8 assuming such customers were taking delivery services for
9 all of their usage, based on the delivery services tariffs
10 in effect during the year for which the transition charge
11 is being calculated and on the usage identified in
12 paragraph (1);

13 (3) less the market value for the electric power and
14 energy that the electric utility would have used to supply
15 all of such customers' electric power and energy
16 requirements, as a tariffed service, based on the usage
17 identified in paragraph (1), with such market value
18 determined in accordance with Section 16-112 of this Act;

19 (4) less the following amount which represents the
20 amount to be attributed to new revenue sources and cost
21 reductions by the electric utility through the end of the
22 period for which transition costs are recovered pursuant to
23 Section 16-108, referred to in this Article XVI as a
24 "mitigation factor":

25 (A) for nonresidential retail customers, except
26 public schools, an amount equal to the greater of (i)
27 0.5 cents per kilowatt-hour during the period October
28 1, 1999 through December 31, 2004, 0.6 cents per
29 kilowatt-hour in calendar year 2005, and 0.9 cents per
30 kilowatt-hour in calendar year 2006, multiplied in
31 each year by the usage identified in paragraph (1), or
32 (ii) an amount equal to the following percentages of
33 the amount produced by applying the applicable base
34 rates (adjusted as described in subparagraph (1)(B))
35 or contract rate to the usage identified in paragraph
36 (1): 8% for the period October 1, 1999 through December

1 31, 2002, 10% in calendar years 2003 and 2004, 11% in
2 calendar year 2005 and 12% in calendar year 2006; and

3 (B) for residential retail customers, an amount
4 equal to the following percentages of the amount
5 produced by applying the base rates in effect on
6 October 1, 1996 (adjusted as described in subparagraph
7 (1)(B)) to the usage identified in paragraph (1): (i)
8 6% from May 1, 2002 through December 31, 2002, (ii) 7%
9 in calendar years 2003 and 2004, (iii) 8% in calendar
10 year 2005, and (iv) 10% in calendar year 2006;

11 (C) for public schools, an amount equal to the
12 greater of: (i) 0.5 cents per kilowatt-hour during the
13 period October 1, 1999 through December 31, 2004, 1.25
14 cents per kilowatt-hour in calendar year 2005, and 1.5
15 cents per kilowatt-hour in calendar year 2006,
16 multiplied in each year by the usage identified in
17 paragraph (1); or (ii) an amount equal to the following
18 percentages of the amount produced by applying the
19 applicable base rates (adjusted as described in
20 subparagraph (1)(B)) or contract rate to the usage
21 identified in paragraph (1): 8% for the period October
22 1, 1999 through December 31, 2002, 10% in calendar
23 years 2003 and 2004, 15% in calendar year 2005 and 25%
24 in calendar year 2006;

25 (5) divided by the usage of such customers identified
26 in paragraph (1),
27 provided that the transition charge shall never be less than
28 zero.

29 "Unbundled service" means a component or constituent part
30 of a tariffed service which the electric utility subsequently
31 offers separately to its customers.

32 (Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02.)

33 (220 ILCS 5/Art. XX heading new)

34 ARTICLE XX. NATURAL GAS AGGREGATION FOR PUBLIC SCHOOLS

1 (220 ILCS 5/20-5 new)

2 Sec. 20-5. Definitions. As used in this Section:

3 "Aggregate" means to combine the total natural gas
4 requirements of all public schools that are members of a public
5 school association for purchase from the delivery systems of
6 Illinois gas corporations and from interstate pipelines.

7 "Delivery system" means the natural gas distribution and
8 transmission lines that are owned and operated by any Illinois
9 gas corporation and the charges for the use of those lines, as
10 regulated by the Commission.

11 "Energy seller" means the entity that uses the delivery
12 system of a gas corporation for delivery of natural gas supply
13 from an interstate pipeline to the gas corporation's meter for
14 use by a public school facility.

15 "Interstate pipeline" means any natural gas pipeline that
16 delivers natural gas supply from outside the State of Illinois
17 to the delivery system of an Illinois gas corporation and that
18 is price-regulated by the Commission.

19 "Intrastate pipeline" means a natural gas pipeline that
20 delivers natural gas supply from inside this State to an
21 Illinois gas corporation's system and is price-regulated by the
22 Commission.

23 "Public school" means any elementary or secondary school
24 operated at public expense.

25 "Public school association" means a not-for-profit
26 association of public schools.

27 "Small volume" means natural gas supply requirements of
28 less than 250,000 therms annually.

29 (220 ILCS 5/20-10 new)

30 Sec. 20-10. Transportation schedules and tariffs.

31 (a) By June 1, 2006 and June 1 of each year thereafter,
32 each Illinois gas corporation shall file with the Commission a
33 set of transportation schedules or tariffs applicable to public
34 schools. The transportation schedules or tariffs filed under
35 this Section shall:

1 (1) authorize a public school association to aggregate
2 the purchase of natural gas requirements by public schools;

3 (2) establish natural gas delivery charges that are
4 equal to Commission-approved gas corporation charges for
5 utility natural gas service, less the distributor's cost of
6 purchased natural gas supply and interstate pipeline
7 charges, plus aggregation administration and monthly meter
8 balancing charges for small volume meters, but not to
9 exceed \$5 per meter per month for administration and 0.004
10 cents per therm delivered, for balancing monthly
11 deliveries to actual usage;

12 (3) offer a public school association the option of
13 contracting with a gas corporation at monthly market prices
14 for interstate pipeline capacity currently being used by
15 the gas corporation to deliver public schools' aggregate
16 monthly requirements;

17 (4) require the gas corporation to provide to each
18 public school association, or its designated agent, at
19 least 5 business days before the first day of each month,
20 the following information, based on weather forecasts and
21 historical monthly usage: (i) daily usage projections for
22 scheduled deliveries to each public school facility, (ii)
23 aggregate daily usage projections by delivery point, and
24 (iii) daily usage projections on a day-ahead basis when
25 necessary to reflect significant changes in weather
26 forecasts;

27 (5) impose a penalty if the projected daily usage of
28 natural gas, as forecasted by the gas corporation, is not
29 delivered to the distributor's delivery system provided,
30 however, that the penalty does not exceed the penalty
31 approved by the Commission in the gas corporation's large
32 volume customer transportation tariffs. No other penalties
33 may be imposed under this Section.

34 No transportation schedule or tariff filed under this
35 Section shall require telemetry or special metering for small
36 volume school meters.

1 (b) The Commission may suspend any transportation schedule
2 or tariff filed under this Section for up to 3 months in order
3 to examine the assumptions and estimates used and to review
4 compliance with the requirements of this Section.

5 (220 ILCS 5/20-15 new)

6 Sec. 20-15. Energy sellers; compliance with Commission
7 rules. In order to supply natural gas to public schools under
8 this Article, an energy seller must comply with all applicable
9 Commission rules. Any agreements entered into on or after the
10 effective date of this amendatory Act of the 94th General
11 Assembly between a public school and an energy seller that is
12 not in compliance with applicable Commission rules is null and
13 void.

14 (220 ILCS 5/20-20 new)

15 Sec. 20-20. Annual statement. Before June 1, 2007 and
16 before June 1 of each year thereafter, each gas corporation
17 shall file with the Commission an annual statement showing: (i)
18 its revenue attributable to the aggregation administrative
19 charge; (ii) its revenue attributable to the small volume meter
20 balancing charge; and (iii) the amount of any incremental costs
21 it incurred as a direct result of implementing aggregate
22 transportation for public schools and monthly balancing
23 service for small volume meters. The Commission shall determine
24 an appropriate future cost recovery method for any unrecovered
25 costs of the gas corporation in order to maintain future
26 earnings neutrality for the gas corporation.

27 (220 ILCS 5/20-25 new)

28 Sec. 20-25. Rules. The Commission may promulgate any rules
29 reasonable or necessary for the administration of this Article.

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.